

REMARKS

Claims 1-49 are pending. Claims 35-49 are withdrawn. By this Amendment, claims 1, 7, 8, 17, 24, 26, and 33 are amended, and claims 6 and 9 are cancelled. Following entry of this Amendment, claims 1-5, 7-8 and 10-49 will be pending of which four are independent (claims 1, 17, 26 and 35). No new matter will be incorporated into the present application by entry of this Amendment. If the Office determines that any additional fees are deemed to be necessary with the filing of this Amendment, then the Office is authorized and requested to charge such fees to Deposit Account No. 061910.

In the Office Action mailed October 5, 2005, the Examiner provisionally rejected claims 1-34 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-3, 10-11, 14, 16-23 and 26-32 of copending Application No. 10/438,283; provisionally rejected claims 1-34 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-63 of copending Application No. 10/123,032; rejected claims 1-34 under 35 U.S.C. 102(e) as being anticipated by U.S. Patent Application Publication No. 2003/0165694 to Hartig; and rejected claims 1-3, 10-11, 14, 16-23 and 26-32 under 35 U.S.C. 102(e) as being anticipated by U.S. Patent Application Publication No. 2004/0016202 to Hoffman.

Applicant has reviewed the copy of the Information Disclosure Statement ("IDS") submitted on November 19, 2003 that was sent with the Office Action and notes that only page 1 of this IDS has been initialed. Applicant respectfully requests the Examiner to initial all nine (9) pages of the IDS and to return an initialed copy to Applicant.

The Examiner provisionally rejected claims 1-34 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-3, 10-

11, 14, 16-23 and 26-32 of copending Application No. 10/438,283 (U.S. 2004/0016202 to Hoffman). The Examiner also provisionally rejected claims 1-34 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-63 of copending Application No. 10/123,032 (U.S. 2003/0165694 to Hartig). Applicant believes the present amendment addresses these obviousness-type double patenting rejections. For example, each independent claim of the present application is hereby amended to require a middle coat that begins with a nitride film and ends with an oxide film. Applicant believes this arrangement is non-obvious over both Hoffman and Hartig for the reasons given below with respect to the Section 102 rejections that rely on these two documents.

The Examiner rejected claims 1-34 under 102(e) as being anticipated by Hartig. Independent claims 1, 17 and 26 have been amended to specify that the first and second high absorption blockers layers are deposited as essentially pure niobium. Applicant has discovered that a coating including blocker layers having the claimed thicknesses and being deposited as essentially pure niobium maintain an exceptional balance of properties (including color properties) when tempered. *See, e.g., page 16, lines 12-15 of Applicant's Specification.* Hartig does not teach a blocker layer deposited as essentially pure niobium. Rather, Hartig teaches a blocker layer comprising both niobium and titanium. *See, e.g., Para [0012] of Hartig.* The combination of both niobium and titanium is essentially in Hartig. Thus, Hartig clearly teaches against using blocker layers that are deposited as essentially pure niobium. Accordingly, Applicant respectfully submits that independent claims 1, 17, 26 and claims depending thereon are both novel and unobvious over Hartig.

The Examiner also rejected claims 1-3, 10-11, 14, 16-23 and 26-32 under 102(e) as being anticipated by Hoffman. Independent claims 1, 17 and 26 have been amended to call for a middle coat comprising a plurality of transparent dielectric films beginning with a nitride film deposited directly over the first high absorption blocker layer and ending with an oxide film directly beneath the second infrared-reflective film. Applicant has discovered that providing such a middle coat is advantageous in establishing the exceptional color properties of the present coating after tempering. *See, e.g., page 18, lines 15-21 of Applicant's Specification.* Hoffman does not disclose such a middle coat. Hoffman only discloses a middle coat comprising at least three transparent dielectric films, wherein two of these films (e.g., the innermost and outermost) are zinc oxide, while the other (e.g., the middle) is titanium dioxide. Alternatively, Hoffman discloses that two of these films (e.g., the innermost and outermost) can be zinc oxide, while the other (e.g., the middle) is silicon nitride. As still another alternative, Hoffman discloses that two of these films (e.g., the innermost and outermost) can be zinc oxide, while the other (e.g., the middle) is tin oxide. *See, e.g., Para [0056 of Hoffman].* None of Hoffman's middle coats have a first film being a transparent dielectric nitride. Applicant has discovered that the presently claimed middle coat arrangement when coupled with blocker layers deposited as essentially pure niobium provides a coating that tempers and thereafter still provides exceptional color. Applicant has not been able to match the desired results using an oxide layer for the first film of the middle coat. Thus, Applicant respectfully submits that independent claims 1, 17, 26 and claims depending thereon are both novel and unobvious over Hoffman.

In view of the foregoing, it is submitted that claims of application are in condition for allowance. Favorable consideration and prompt allowance of the application are respectfully requested. The Examiner is invited to telephone the undersigned if the Examiner believes it would be useful to advance prosecution.

Respectfully submitted,



Eric Snustad
Registration No. 45,120

Customer No. 22859
Fredrikson & Byron, P.A.
200 South Sixth Street
Suite 4000
Minneapolis, MN 55402-1425 USA
Telephone: (612) 492-7000
Facsimile: (612) 492-7077
#3182025\1